

Notice of Allowability

Application No.

10/628,471

Examiner

Julian D. Huffman

Applicant(s)

NAGATSUKA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 21 February 2007.
2. ☒ The allowed claim(s) is/are 1-5 and 10-26.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

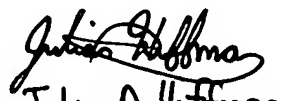
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Julian D. Huffman
Primary Examiner
Art Unit 2853
6 March 2007

Election/Restrictions

Claims 1-3,5,14-20,23,25 and 26 are allowable. The restriction requirement has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). Claims 4, 10-13, 21, 22 and 24 are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. However, claims 6-9, remain withdrawn from consideration because the limitations present in these claims are directed towards an embodiment that is distinct from that claimed in the independent claims. This embodiment is illustrated in fig. 8. It is apparent from fig. 8 that this embodiment does not immediately form the output/predetermined image as claimed in claim 1. Accordingly, it would not be proper under 35 U.S.C. 112 first paragraph to rejoin these claims.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Georg Hasselmann on 5 March 2007.

The application has been amended as follows:

In the claims:

Cancelled claims 6-9.

Reasons For Allowance

It is noted for the record that support for the amended claim language is clearly provided in fig. 6, steps 104, 106, 108 and 110. No intermediate steps are performed between the step 108 of determining if the density is within an allowable range and storage of the predetermined image in step 110 (printing of the predetermined image on the recording media).

Since the examiner suggested the amended claim language to overcome the prior art of record, the following discussion is provided by the examiner to explain the examiner's rationale for providing this suggestion. In no way should the following discussion serve as an explanation of how applicant views their invention.

Turning to the prior art references:

Takagi seemingly solves the problem of wasting multiple pages during test printings. Takagi forms test prints on the same page multiple times, apparently on different portions of the page, until test results are within allowable limits. Takagi never mentions a rewritable image recording media.

The Shishido reference is important since it teaches trial printing a temporary image on a rewritable recording media, erasing the image, and using the medium again. None of the prior art references, alone or in combination, disclose the important feature of printing a test pattern, determining if the images are within an allowable range, and once the images are within an allowable range, immediately reprinting a predetermined image on the medium.

The combination of Takagi and Shishido teaches forming a test image and then re-using the media to print an image at some unforeseen future time, but not immediately after printing. The examiner recognizes this as an important difference between the prior art and applicant's invention. In applicant's invention, the test printing is conducted to ensure that the image to be recorded as the predetermined image is of the highest quality possible. Hence, the test image is recorded immediately preceding the predetermined image. In the prior art combination, recording again on the rewritable media that was used previously to hold a test image is conducted at an unforeseen time in the future. A time period significant enough to affect the output characteristics of the image forming device may have elapsed between the printing of the test image and the printing of the predetermined image. Thus the settings derived from the test image may

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no longer be valid. In the prior art, the predetermined image on the rewritable recording media could be printed by an entirely different image forming device.

From the above discussion, it should be clear that support for the claim amendments is provided by original disclosure and the claims as amended are patentable over the prior art, and the claimed invention potentially provides an advantage not found in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Communications With The USPTO

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian D. Huffman whose telephone number is (571) 272-2147. The examiner can normally be reached on 10:00a.m.-6:30p.m. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Julian D. Huffman
Primary Examiner
Art Unit 2853
6 March 2007